



PATENT
Customer No. 22,852
Attorney Docket No. 05725.0807-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:)
Isabelle ROLLAT-CORVOL et al.) Group Art Unit: 1617
Application No.: 09/719,101)
Filed: February 23, 2001) Examiner: WANG, Shengjun
For: COSMETIC COMPOSITION) Confirmation No.: 4969
COMPRISING AT LEAST ONE TACKY)
POLYMER AND AT LEAST ONE)
FIXATIVE POLYMER)

Mail Stop Appeal Brief--Patents

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

TRANSMITTAL OF APPEAL BRIEF (37 C.F.R. 41.37)

Transmitted herewith is the Appeal Brief in this application with respect to the
Notice of Appeal filed on August 28, 2007.

This application is on behalf of

Small Entity Large Entity

Pursuant to 37 C.F.R. 41.20(b)(2), the fee for filing the Appeal Brief is:

\$255.00 (Small Entity)

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TOTAL FEE DUE:

Appeal Brief Fee \$510.00

Extension Fee (if any) \$1050.00

Total Fee Due \$1560.00

Enclosed is a check for \$1560.00 to cover the above fees.

PETITION FOR EXTENSION. If any extension of time is necessary for the filing of this Appeal Brief, and such extension has not otherwise been requested, such an extension is hereby requested, and the Commissioner is authorized to charge necessary fees for such an extension to Deposit Account No. 06-0916.

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: February 21, 2008

By: 
Mark D. Sweet
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Sir:

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Further to the Notice of Appeal filed August 28, 2007, pursuant to 37 C.F.R. § 41.37, and in response to the Notice of Panel Decision from Pre-Appeal Brief Review dated October 29, 2007 ("Notice of Panel Decision"), Appellants present this brief and enclose herewith a check for the fee of \$510.00 required under 37 C.F.R. § 41.20(b)(2). The period for filing the appeal brief has been extended to February 29, 2008, by the accompanying Petition and fee.

This appeal is in response to the final Office Action dated March 28, 2007 ("Final Office Action"), the Advisory Action dated August 22, 2007 ("Advisory Action"), and the Notice of Panel Decision, rejecting claims 38-58, 60, 69, 78, 79, 83, 84, and 88-106.

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I. Real Party In Interest

L'Oréal S.A. is the assignee of record as indicated by the assignment recorded on February 23, 2001, at Reel 011570, Frame 0104.

II. Related Appeals and Interferences

Appellants, Appellants' undersigned legal representative, or L'Oréal S.A. know of no other appeals or interferences which will directly affect, be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status Of Claims

Claims 38-106 are pending in this application. Claims 59, 61-68, 70-77, 80-82, and 85-87 stand withdrawn by the Examiner as allegedly being directed to non-elected subject matter. Claims 38-58, 60, 69, 78, 79, 83, 84, and 88-106 are finally rejected. See Final Office Action dated March 28, 2007, Advisory Action dated August 22, 2007, and Notice of Panel Decision from Pre-Appeal Brief Review dated October 29, 2007.

The rejections of claims 38-58, 60, 69, 78, 79, 83, 84, and 88-106 are being appealed.

Specifically, in the Final Office Action, pages 2-7,

(1) claims 38-58, 60, 69, 78, 79, 83, 84, and 88-106 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-41 of U.S. Patent No. 6,346,234 to Rollat et al. ("the '234 patent") in view of EP 0551 749 to Lee et al. ("Lee");

(2) claims 38-43, 45-50, 69, 78, 79, 83, 84, and 88-106 have been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement; and

(3) claims 38-58, 60, 69, 78, 79, 83, 84, and 88-106 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Lee* in view of WO 95/18191 to Miller et al. ("Miller").

IV. Status Of Amendments

All amendments have been entered, and no amendments under 37 C.F.R. § 1.116 have been made after the Final Office Action dated March 28, 2007.

V. Summary Of Claimed Subject Matter

The claims of the present invention recite a cosmetic composition for keratinous fibers such as hair, comprising, in a cosmetically acceptable medium, at least one tacky polymer having a glass transition temperature (Tg) of less than 20°C and at least one fixing polymer having a glass transition temperature (Tg) greater than 15°C. See as-filed Specification at page 1 lines 4-9. Also disclosed and claimed by Appellants are methods using and making this composition. *Id.* lines 9-14.

Independent claim 38 is directed to a cosmetic composition for keratinous fibers comprising, in a cosmetically acceptable medium, at least one tacky polymer having a glass transition temperature (Tg) of less than 20°C and at least one fixing polymer having a glass transition temperature (Tg) greater than 15°C. *Id.* at page 1 lines 4-9 and page 4 lines 4-10.

Independent claim 69 is directed to a process for manufacturing a cosmetic hairstyling formulation comprising including in said cosmetic hairstyling formulation at least one tacky polymer having a glass transition temperature (Tg) of less than 20°C and at least one fixing polymer having a glass transition temperature (Tg) greater than 15°C. *Id.* at page 1 lines 4-14, page 4 lines 4-10, page 15 lines 15-17, and page 21 line 11 - page 22 line 3.

Independent claim 89 is directed to a vaporizable composition, a foam, a gel or a lotion comprising a cosmetic composition for keratinous fibers, which comprises, in a cosmetically acceptable medium, at least one tacky polymer having a glass transition temperature (Tg) of less than 20°C and at least one fixing polymer having a glass

transition temperature (Tg) greater than 15°C. *Id.* at page 1 lines 4-9, page 4 lines 4-10, and page 14 lines 14-19.

Independent claim 98 is directed to an aerosol device comprising (1) a compartment comprising an aerosol composition comprising a liquid phase and at least one propellant, wherein said liquid phase comprises, in an appropriate solvent, a cosmetic composition for keratinous fibers comprising, in a cosmetically acceptable medium, at least one tacky polymer having a glass transition temperature (Tg) of less than 20°C and at least one fixing polymer having a glass transition temperature (Tg) greater than 15°C, and (2) a member for distributing said aerosol composition. *Id.* at page 1 lines 4-9, page 4 lines 4-10, and page 15 lines 3-9.

Independent claim 99 is directed to a process of treating keratinous fibers comprising applying to said fibers, before and/or after shaping a hairstyle, a cosmetic composition for keratinous fibers comprising, in a cosmetically acceptable medium, at least one tacky polymer having a glass transition temperature (Tg) of less than 20°C and at least one fixing polymer having a glass transition temperature (Tg) greater than 15°C. *Id.* at page 1 lines 4-9, page 4 lines 4-10 and page 15 lines 10-14.

VI. Grounds of Rejection To Be Reviewed on Appeal

Three grounds of rejection are to be reviewed in this appeal:

- (1) The rejection of claims 38-58, 60, 69, 78, 79, 83, 84, and 88-106 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-41 of U.S. Patent No. 6,346,234 to Rollat et al. ("the '234 patent") in view of EP 0551 749 to Lee et al. ("Lee");
- (2) The rejection of claims 38-43, 45-50, 69, 78, 79, 83, 84, and 88-106 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement; and
- (3) The rejection of claims 38-58, 60, 69, 78, 79, 83, 84, and 88-106 under 35 U.S.C. § 103(a) as being unpatentable over *Lee* in view of WO 95/18191 to Miller et al. ("Miller").

VII. Argument

Each claim of the present application is separately patentable, and upon issuance of a patent will be entitled to a separate presumption of validity under 35 U.S.C. § 282. The arguments set forth below are arranged under headings, and in accordance with 37 C.F.R. § 41.37(c)(1)(vii), these headings indicate the claims whose patentability is separately argued.

The Double Patenting Rejection

Claims 38-58, 60, 69, 78, 79, 83, 84, and 88-106 stand rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-41 of the '234 patent, in view of *Lee*. In the Advisory Action mailed August 22, 2007, the Examiner indicates that the Terminal Disclaimer filed in this application on July 27, 2007, has been received and is under review. The Notice of Panel Decision from Pre-Appeal Brief Review mailed October 29, 2007, provides no further information as to the status of the double patenting rejection. Appellants submit that the Terminal Disclaimer has rendered the double patenting rejection moot and respectfully request its withdrawal.

The § 112, First Paragraph, Rejection

Claims 38-43, 45-50, 69, 78, 79, 83, 84, and 88-106 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Appellants disagree with this rejection for at least the following reasons, as well as the reasons of record.

In the Office Action mailed March 28, 2007, the Examiner maintained the rejection under § 112, first paragraph, asserting that “[t]he claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims are directed to composition comprising polymers which are solely defined by physical properties “tacky”; Tg, F_{max}, or E_{s(M/V)}, etc.” Final Office Action at 3. Further, the Examiner alleged that “a screen method for finding a compound is not a proper written description for the compound.” *Id.* at 6 (citing *University of Rochester v. G.D. Searle & Co., Inc., et al.*, 358 F.3d 916, 920-23, 69 USPQ2d 1886, 1894-1895 (Fed. Cir. 2004). Appellants respectfully disagree with the Examiner and submit that the facts and holdings of the *University of Rochester* case do not apply here.

In *University of Rochester*, the claims at issue contain a functional description of the compound, i.e., “a non-steroidal compound that selectively inhibits activity of the PGHS-2 gene product,” and the specification did not disclose any such compound, a defect that the court makes clear is the basis for its decision that the claims are invalid for failing to comply with the written description requirement of § 112: “[i]t is undisputed that the ‘850 patent **does not disclose any compounds** that can be used in its claimed methods. The claimed methods **thus** cannot be practiced based on the patent’s specification, even considering the knowledge of one skilled in the art.” *Univ. of Rochester*, 358 F.3d at 918, 920; 69 USPQ2d at 1888-89, 1895 (emphasis added).

In contrast to the *University of Rochester* case, the as-filed original specification discloses multiple embodiments of a “tacky polymer” as presently claimed.

According to a first advantageous embodiment of the present invention, a branched sulphonic polymer or (meth)acrylic ester polymers are chosen as tacky polymer.

The branched sulphonic polymers more particularly desired by the present invention are those described in patent application WO 95/18191, WO 97/08261, and WO 97/20899.

The tacky (meth)acrylic ester polymers particularly described by the present invention are those described in patents US 5 234 627 and US 4 007 147.

Specification at 6, lines 21-23; 9, lines 21-24; and 12, lines 7-9.

Furthermore, four different working examples of compositions as presently claimed (compositions 1, 2, and 3 of Example 1 and composition 8 of Example 2) are disclosed comprising AQ 1350, a commercially-available branched sulphonic polyester, as the tacky polymer. See Specification at 16-22. Accordingly, the facts and holdings of the *University of Rochester* case do not apply here.

Appellants respectfully submit that the present specification and claims fully satisfy the written description requirement for a claimed genus, which M.P.E.P. § 2163 clearly states “may be satisfied through sufficient description of a representative number of species by actual reduction to practice, reduction to drawings, or by disclosure of relevant, identifying characteristics, i.e., **structure or other physical and/or chemical properties, by functional characteristics** coupled with a known or disclosed correlation between function and structure, or by a **combination of such identifying characteristics**, sufficient to show the applicant was in possession of the claimed genus.” M.P.E.P. § 2163 II.A.3(a).ii), internal citations removed and emphasis added.

As previously discussed here, the present specification discloses multiple specific species of tacky polymers according to the present claims. In addition, the

present specification provides disclosure of relevant, identifying characteristics of tacky polymers according to the present claims in at least the following ways.

As the Examiner himself admits in the Final Office Action at 3, “tacky”, Tg, F_{max}, or E_{s(M/V)} etc.” as recited in the rejected claims and as defined in the specification at pages 1 and 4-6, are physical properties as well as functional characteristics of the claimed tacky polymers. Furthermore, contrary to the Examiner’s allegation that “the specification provides no written description as to what the structural characteristics of a polymer would be required to meet all the functional limitations herein” (*id.*), the specification provides clear guidance on the chemical properties and structure of tacky polymers according to the present claims. In the specification at pages 7-9, the preparation of branched sulphonic polyesters, previously disclosed among preferred embodiments of tacky polymers, is described in detail, including specific disclosure of suitable chemical structures and molar ratios for each starting material. Similarly, the specification at pages 10-12 details the chemical structure and composition of (meth)acrylic ester polymers, also previously disclosed among preferred embodiments of tacky polymers.

Thus, the as-filed specification defines the chemical properties and structure of polymers according to the present claims as well as their physical properties and functional characteristics, fully satisfying the requirements set forth in M.P.E.P. § 2163 II.A.3(a).ii. Accordingly, the rejection under 35 U.S.C. § 112, first paragraph, is improper and Appellants respectfully request its withdrawal.

The § 103(a) Rejection

Claims 38-58, 60, 69, 78, 79, 83, 84, and 88-106 stand rejected under 35 U.S.C. § 103 over *Lee* in view of *Miller*. In the Final Office Action, the Examiner states that “*Lee* teaches a hair treatment composition comprising a water-insoluble, water-dispersible polymeric resin and a water-soluble amphoteric polymer,” but acknowledges that “*Lee* does not teach expressly the employment of branched sulfonic polyester herein with Tg less than 20 °C.” Final Office Action at 4. The Examiner alleges, however, that this deficiency could be cured by *Miller*, which the Examiner asserts “teaches the improved branched sulfonic polyester with [lower] Tg.” *Id.* at 5. Thus, according to the Examiner, “it would have been *prima facie* obvious to a person of ordinary skill in the art, at the time the claimed invention was made, to modify *Lee*’s composition by using the branched sulfonic polyester as the water-dispersible resin.” *Id.* Appellants continue to disagree with the Examiner and traverse this rejection for the reasons of record and the following additional reasons.

With respect to obviousness, several basic factual inquiries must be made in order to determine the obviousness or non-obviousness of claims under 35 U.S.C. § 103. These factual inquiries, set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 U.S.P.Q. 459, 467 (1966), require the Examiner to:

- (1) Determine the scope and content of prior art;
- (2) Ascertain the differences between the prior art and the claims in issue;
- (3) Resolve the level of ordinary skill in the pertinent art; and
- (4) Evaluate evidence of secondary considerations.

The obviousness or non-obviousness of the claimed invention is then evaluated in view of the results of these inquiries. *Graham*, 383 U.S. at 17-18, 148 U.S.P.Q. 467; see also *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1730, 82 U.S.P.Q.2d 1385, 1388 (2007).

Indeed, to establish a *prima facie* case of obviousness, the examiner must:

make a determination whether the claimed invention "as a whole" would have been obvious at that time to that person. Knowledge of applicant's disclosure must be put aside in reaching this determination, yet kept in mind in order to determine the "differences," conduct the search and evaluate the "subject matter as a whole" of the invention. The tendency to resort to "hindsight" based upon applicant's disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.

M.P.E.P. § 2142, 8th Ed., Rev. 6 (September 2007). "The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. *Id.* It is important to note, moreover, that the prior art references relied upon in a rejection "must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention," when such reasons are articulated by the Examiner. *Graham*, 383 U.S. at 17, 148 U.S.P.Q. 467; See also M.P.E.P. § 2141.03(VI), 8th Ed., Rev. 6 (September 2007) (emphasis added).

Appellants respectfully submit that such reasons are not present in the rejection of record at least because the prior art relied upon by the Examiner, i.e., *Lee* and *Miller*, when considered as a whole, provide no reason that would have prompted a person of ordinary skill in art to modify and combine the references in the manner suggested by the Examiner. In fact, for the reasons set forth below, Appellants submit that the prior

art references, when considered as a whole, include portions that would discourage the modification and combination suggested by the Examiner.

Lee is directed to "hairspray compositions especially formulated for use in low organic volatile systems," and in particular, compositions comprising both "a water-insoluble dispersible polymeric resin having a viscosity of less than about 2 centipoise at 25 °C when 10% is dispersed in water" and "a water-soluble amphoteric polymer". *Lee* at 2, lines 5-6 and 55-8. According to *Lee*, "[h]airspray compositions must meet a number of functional requirements," such as "good holding ability and curl retention without giving a harsh, brittle feeling to the hair," "low stickiness," and "good combing characteristics." *Id.* at 2, lines 10-14. In order to achieve such properties, *Lee* teaches that the most preferred water-insoluble dispersible polymeric resins are Eastman AQ polyester resins functionalized with sulphonic groups and having a glass transition temperature (Tg) "ranging from about 50 °C to about 70 °C, preferably around 55 °C." *Id.* at 3, lines 15-18.

In contrast, *Miller* is directed to hot-melt adhesive compositions that are repulpable, that is, adhesive compositions that do not impede the recycling of paper products, nonwoven assemblies, and other disposable products to which the compositions are applied. (See *Miller*, page 2, lines 5-7.) According to *Miller*, such hot-melt adhesive compositions should comprise a branched water-dispersible polyester comprising sulfonate groups and having a glass transition temperature "no greater than 20 °C." *Id.* at 3, line 24. Indeed, *Miller* makes it clear that Tg is a controlling factor in determining whether or not an adhesive composition possesses the desired material properties:

The preferred Tg of the adhesive composition according to the present invention is below 10 °C and more preferably varies from 4 to -20 °C, with a Tg of 4 to -13 °C being most preferred. The Tg (glass transition temperature) of the adhesive compositions of the present invention are preferably as low as possible. Thus Tgs below 4 °C and even below 0 °C are preferred. Tgs of greater than 0 °C have generally higher ring and ball softening point (RBSP) and heat resistance but are not as flexible. A low Tg means that the adhesive compositions will not be brittle, thus, cartons adhered together with the adhesive compositions of the present invention when impacted, even at extremely cold temperatures will not shatter and thus maintain adhesion.

Id. at 6, lines 50-56.

Thus, *Miller* teaches that branched polyesters with low glass transition temperatures are useful in the preparation of adhesive compositions whose properties include "high bond strength under conditions of shock, stress, high humidity, and extremes of temperature encountered in transportation and storage." (*Id.* at page 2, lines 15-17.) One of ordinary skill would thus recognize that *Miller's* hot-melt adhesives have material properties incompatible with the "low stickiness" and "good combing characteristics" required by hairspray compositions according to *Lee*, material properties *Miller* directly attributes to the use of a low-Tg branched polyester.

In order to arrive at compositions resembling those presently claimed, one would need to modify compositions according to *Lee* by substituting the low-Tg branched polyesters of *Miller* for the high-Tg polymeric resins recommended by *Lee*. However, as discussed above, *Miller* explicitly teaches that such a modification would render the resulting compositions unsatisfactory for *Lee's* intended purpose. Citing *In re Gordon*, M.P.E.P. 2143.01.V states that "[i]f proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no

suggestion or motivation to make the proposed modification.” M.P.E.P. 8th Ed., Rev. 6 (September 2007).

Accordingly, the rejection under 35 U.S.C. § 103 is improper and Appellants respectfully request its withdrawal.

Conclusion

In view of the foregoing, Appellants respectfully submit that all outstanding rejections have been overcome and should be withdrawn.

VIII. Claims Appendix

Claims on appeal:

38. (Previously Presented): A cosmetic composition for keratinous fibers comprising, in a cosmetically acceptable medium, at least one tacky polymer having a glass transition temperature (Tg) of less than 20°C and at least one fixing polymer having a glass transition temperature (Tg) greater than 15°C.

39. (Previously Presented): A composition according to claim 38, wherein said at least one tacky polymer has a peeling profile defined by at least a maximum peeling force $F_{max} > 3$ Newtons.

40. (Previously Presented): A composition according to claim 39, wherein said at least one tacky polymer has a peeling profile defined by at least a maximum peeling force $F_{max} > 5$ Newtons.

41. (Previously Presented): A composition according to claim 38, wherein said keratinous fibers are chosen from hair.

42. (Previously Presented): A composition according to claim 39, wherein when said glass transition temperature of said at least one tacky polymer is less than -15°C, and wherein said peeling profile is further defined by at least an energy for separation $E_{s(M/V)}$ of less than 300 μJ .

43. (Previously Presented): A composition according to claim 40, wherein when said glass transition temperature of said at least one tacky polymer is less than -

15°C, and wherein said peeling profile is further defined by at least an energy for separation $E_{s(M/V)}$ of less than 300 μJ .

44. (Previously Presented): A composition according to claim 38, wherein said at least one tacky polymer is chosen from branched sulfonic polyester polymers and (meth)acrylic ester polymers.

45. (Previously Presented): A composition according to claim 38, wherein said at least one tacky polymer is present in an amount greater than 0.01% by weight relative to the total weight of the composition.

46. (Previously Presented): A composition according to claim 45, wherein said at least one tacky polymer is present in an amount greater than 0.1% by weight relative to the total weight of the composition.

47. (Previously Presented): A composition according to claim 46, wherein said at least one tacky polymer is present in an amount greater than 0.5% by weight relative to the total weight of the composition.

48. (Previously Presented): A composition according to claim 38, wherein said at least one fixing polymer has a glass transition temperature (Tg) greater than 25°C.

49. (Previously Presented): A composition according to claim 38, wherein said at least one fixing polymer is present in an amount greater than 0.01% by weight relative to the total weight of the composition.

50. (Previously Presented): A composition according to claim 49, wherein said at least one fixing polymer is present in an amount greater than 0.1% by weight relative to the total weight of the composition.

51. (Previously Presented): A composition according to claim 44, wherein said branched sulfonic polyester polymers are formed from:(i) at least one dicarboxylic acid carrying two functional groups, wherein said functional groups are chosen from functional groups other than sulfonic groups;

(ii) at least one sulfomonomer comprising at least one sulfonic group and carrying two functional groups, wherein said functional groups are chosen from hydroxyl groups, carboxyl groups and amino groups;

(iii) at least one diol and optionally at least one diamine;

(iv) optionally at least one monomer carrying two functional groups, wherein said at least one monomer is chosen from hydroxycarboxylic acids, and aminocarboxylic acids; and

(v) at least one compound carrying at least three functional groups chosen from amino groups, alcohol groups, and carboxylic acid groups.

52. (Previously Presented): A composition according to claim 51, wherein said branched sulfonic polyester polymers are formed from:

(i) said at least one dicarboxylic acid carrying two functional groups, wherein said functional groups are chosen from functional groups other than sulfonic groups;

- (ii) 2 to 15 relative mol% of said at least one sulfomonomer comprising at least one sulfonic group and carrying two functional groups, wherein said functional groups are chosen from hydroxyl groups, carboxyl groups and amino groups;
- (iii) said at least one diol and optionally said at least one diamine;
- (iv) 0 to 40 relative mol% of said at least one monomer carrying two functional groups, wherein said at least one monomer is chosen from hydroxycarboxylic acids, and aminocarboxylic acids; and
- (v) 0.1 to 40 relative mol% of said at least one compound carrying at least three functional groups chosen from amino groups, alcohol groups, and carboxylic acid groups.

53. (Previously Presented): A composition according to claim 51, wherein said carboxylic acid functions are present in a total number equal to a total number of said diol and said optional diamine functions combined.

54. (Previously Presented): A composition according to claim 51, wherein said at least one dicarboxylic acid carrying two functional groups (i) is chosen from aliphatic dicarboxylic acids, alicyclic dicarboxylic acids, and aromatic dicarboxylic acids.

55. (Previously Presented): A composition according to claim 51, wherein said at least one dicarboxylic acid carrying two functional groups (i) is chosen from 1,4-cyclohexanedioic acid, succinic acid, glutaric acid, adipic acid, azelaic acid, sebacic

acid, fumaric acid, maleic acid, 1,3-cyclohexanedioic acid, phthalic acid, terephthalic acid, and isophthalic acid.

56. (Previously Presented): A composition according to claim 51, wherein said at least one sulfomonomer comprising at least one sulfonic group and carrying two functional groups (ii) is chosen from dicarboxylic acids comprising at least one metal sulfonate group, dicarboxylic acid esters comprising at least one metal sulfonate group, glycols comprising at least one metal sulfonate group, and hydroxy acids comprising at least one metal sulfonate group.

57. (Previously Presented): A composition according to claim 51, wherein said at least one diol of (iii) is chosen from alkanediols and polyalkylene diols.

58. (Previously Presented): A composition according to claim 51, wherein said at least one diol of (iii) is chosen from ethylene glycol, propylene glycol, diethylene glycol, triethylene glycol, and polypropylene glycol.

60. (Previously Presented): A composition according to claim 51, wherein said at least one compound carrying at least three functional groups chosen from amino groups, alcohol groups, and carboxylic acid groups (v) is chosen from trimethylolethane, trimethylolpropane, glycerol, pentaerythritol, sorbitol, trimellitic anhydride, erythritol, threitol, dipentaerythritol, pyromellitic dianhydride, and dimethylpropionic acid.

69. (Previously Presented): A process for manufacturing a cosmetic hairstyling formulation comprising including in said cosmetic hairstyling formulation at

least one tacky polymer having a glass transition temperature (Tg) of less than 20°C and at least one fixing polymer having a glass transition temperature (Tg) greater than 15°C.

78. (Previously Presented): A composition according to claim 38, wherein said at least one fixing polymer of said composition is chosen from anionic, cationic, amphoteric, and nonionic fixing polymers.

79. (Previously Presented): A composition according to claim 38, wherein said at least one fixing polymer is either solubilized in said composition or dispersed in said composition.

83. (Previously Presented): A composition according to claim 78, wherein said amphoteric fixing polymers are chosen from:

(1) polymers comprising at least one unit B and at least one unit C randomly distributed in the polymer chain of said polymers, wherein said at least one unit B is chosen from monomeric units derived from at least one monomer comprising at least one basic functional group, and wherein said at least one unit C is chosen from monomeric units derived from at least one acidic monomer comprising at least one group chosen from carboxylic groups and sulfonic groups,

(2) polymers comprising at least one unit B and at least one unit C randomly distributed in the polymer chain of said polymers, wherein said at least one unit B and said at least one unit C are each chosen from monomeric units derived from at least

one zwitterionic monomer chosen from zwitterionic monomers of carboxybetaines and zwitterionic monomers of sulfobetaines,

(3) polymers comprising a cationic polymer chain formed from at least one unit B and at least one unit C, wherein said cationic polymer chain comprises at least one amine group chosen from primary, secondary, tertiary, and quaternary amine groups, wherein at least one of said at least one amine group carries a group chosen from carboxylic groups and sulfonic groups, wherein said carried group is attached by way of a hydrocarbon linker, and

(4) polymers comprising at least one ethylene- γ,β -dicarboxylic unit wherein one of said two carboxylic groups has been caused to react with at least one polyamine comprising at least one amine group chosen from primary and secondary amine groups.

84. (Previously Presented): A composition according to claim 83, wherein, when said at least one unit B in (1) is chosen from monomeric units derived from at least one monomer comprising at least one basic functional group, said at least one basic functional group being a basic nitrogen atom.

88. (Previously Presented): A composition according to claim 38, wherein said at least one fixing polymer is dispersed in said composition and is chosen from polymers formed from at least one acrylic monomer, polymers formed from at least one acrylic ester monomer, polymers formed from at least one methacrylic monomer, polymers formed from at least one methacrylic ester monomer, and polymers formed from at least one styrene monomer.

89. (Previously Presented): A vaporizable composition, a foam, a gel or a lotion comprising a cosmetic composition for keratinous fibers, which comprises, in a cosmetically acceptable medium, at least one tacky polymer having a glass transition temperature (Tg) of less than 20°C and at least one fixing polymer having a glass transition temperature (Tg) greater than 15°C.

90. (Previously Presented): A composition according to claim 38, wherein said cosmetically acceptable medium comprises at least one solvent chosen from water and alcohols.

91. (Previously Presented): A composition according to claim 38 further comprising at least one additive chosen from gelling agents and foaming agents.

92. (Previously Presented): A composition according to claim 38 further comprising at least one propellant.

93. (Previously Presented): A composition according to claim 92, wherein said at least one propellant is chosen from compressed gases, and liquefied gases.

94. (Previously Presented): A composition according to claim 92, wherein said at least one propellant is chosen from gases.

95. (Previously Presented): A composition according to claim 92, wherein said at least one propellant is chosen from gases which are soluble in said composition.

96. (Previously Presented): A composition according to claim 93, wherein said compressed gases and liquified gases are chosen from compressed air, carbon dioxide, and nitrogen.

97. (Previously Presented): A composition according to claim 95, wherein said gases which are soluble in said composition are chosen from dimethyl ether and fluorinated hydrocarbons.

98. (Previously Presented): An aerosol device comprising (1) a compartment comprising an aerosol composition comprising a liquid phase and at least one propellant, wherein said liquid phase comprises, in an appropriate solvent, a cosmetic composition for keratinous fibers comprising, in a cosmetically acceptable medium, at least one tacky polymer having a glass transition temperature (Tg) of less than 20°C and at least one fixing polymer having a glass transition temperature (Tg) greater than 15°C, and (2) a member for distributing said aerosol composition.

99. (Previously Presented): A process of treating keratinous fibers comprising applying to said fibers, before and/or after shaping a hairstyle, a cosmetic composition for keratinous fibers comprising, in a cosmetically acceptable medium, at least one tacky polymer having a glass transition temperature (Tg) of less than 20°C and at least one fixing polymer having a glass transition temperature (Tg) greater than 15°C.

100. (Previously Presented): A process according to claim 99, wherein said keratinous fibers are chosen from hair.

101. (Previously Presented): A composition according to claim 39, wherein said maximum peeling force F_{max} is measured with an extensometer and is a maximum tensile force for peeling apart 38 mm^2 coated surfaces of two rigid, inert, and nonabsorbent supports (A) and (B) placed opposite each other, wherein said surfaces have been (1) coated with a tacky polymer dissolved at 5% in a solvent, at the rate of 1 mg/mm², (2) dried for 24 hours at 22°C under a relative humidity of 50%, (3) compressed for 20 seconds under a force of 3 Newtons, and (4) pulled apart for 30 seconds at a rate of 20 mm/min.

102. (Previously Presented): A composition according to claim 101, wherein said solvent is chosen from aqueous solvents, aqueous-alcoholic solvents, and alcoholic solvents.

103. (Previously Presented): A composition according to claim 101, wherein said supports (A) and (B) are chosen from polyethylene supports, polypropylene supports, metal alloy supports, and glass supports.

104. (Previously Presented): A composition according to claim 42, wherein said $E_{s(M/V)}$ is an amount of energy provided by an extensometer for peeling apart 38 mm^2 coated surfaces of two rigid, inert, and nonabsorbent supports (C) and (D) placed opposite each other, wherein one of said two supports comprises cut glass and a second of said two supports is chosen from polyethylene supports, polypropylene supports, metal alloy supports, and glass supports, and wherein said surfaces have been (1) coated with a tacky polymer dissolved at 5% in a solvent, at the rate of

1 mg/mm², (2) dried for 24 hours at 22°C under a relative humidity of 50%, (3) compressed for 20 seconds under a force of 3 Newtons, and (4) pulled apart for 30 seconds at a rate of 20 mm/min.

105. (Previously Presented): A composition according to claim 104, wherein said solvent is chosen from aqueous solvents, aqueous-alcoholic solvents, and alcoholic solvents.

106. (Previously Presented): A composition according to claim 104, wherein said E_{s(M/V)} is an amount of energy calculated by means of the following formula:

$$\int_{x_{s1} + 0.05}^{x_{s2}} F(x) dx$$

- where F(x) is a force necessary to produce a movement (x),
- x_{s1} is the movement in millimeters produced by a maximum tensile force, and
 - x_{s2} is the movement in millimetres produced by a tensile force sufficient to completely separate said surfaces of said supports (C) and (D).

IX. Evidence Appendix

None.

X. Related Proceedings Appendix

None.

Please grant any extensions of time required to enter this Brief and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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By:


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